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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/664,699 | 09/18/2003 | John Leary | ADAMSRI.031A | 4708 |

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| 20995 | 7590 | 01/17/2008 |
| KNOBBE MARTENS OLSON & BEAR LLP | | |
| 2040 MAIN STREET | | |
| FOURTEENTH FLOOR | | |
| IRVINE, CA 92614 | | |

| EXAMINER |
|------------------|
| PASCHALL, MARK H |

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 3742 | |

| NOTIFICATION DATE | DELIVERY MODE |
|-------------------|---------------|
| 01/17/2008 | ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcarter@kmob.com
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Office Action Summary

Application No.

10/664,699

Applicant(s)

LEARY ET AL.

Examiner

Mark H. Paschall

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 4-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1,2,4,6-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 350453 in view of Leuschner et al and GB 2,157,815.

Ep teaches a basin heater but does not teach the heater along the heating tube not coil around it nor does Ep teach use of a heating volume of less than 14 ounces. Note that the reference , "for use with a wash basin on an aircraft", in the apparatus claims, merely comprises intended use. The patent to Leuschner et al is applied for teaching

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that a flow thru heater can comprise a heating element 4 along the longitudinal extent of the fluid tube and use of the same leads to effective heating of the fluid. In view of this teaching it would have been obvious to modify the EP system to use a longitudinally extending heating element in contact with a flow through tube, to more effectively heat the fluid in the tube 3. Claims 1 and 14 set forth that the heated volume is less than 14 ounces. While one of ordinary skill in the art find such choice well within the level of skill in the art, the patent to GB 815' has been applied for clearly teaching use of flow thru heaters to heat only a single cup at a time, whatever is loaded into the heater tube reservoir, and in view of this teaching it would have been obvious to modify EP further to limit the heating volume to 14 ounce if desired, such choice designated by undisclosed parameters such as the usage of the heated fluid and structural or size limitations of the device. Note that criticality of the volume is absent since the claimed language does not specify the flow rate or the flow of water at all. Note that the volume heated is a parameter dependent on flow rate and flow pressure, yet undisclosed parameters in the claimed invention.

Response to Arguments

Applicant's arguments with respect to claims 1,2,4-25 have been considered but are moot in view of the new ground(s) of rejection. Applicant's arguments advance that the patent to English is non-analogous, that is directed to a coffee maker, whereas the instant claims are directed to an instantaneous heater, for basin water heating. In this respect the patent to Gb 815' has been applied, with a new grounds of rejection for

clearly teaching heating of small amounts of water with an instantaneous heater, for bas in use. Clearly, this is for heating small amounts of water within the context claimed. Note tube 4 for heating small volumes of water. Also note that the heating of the water in small amounts is dependent on the water pressure and flow rates, non-disclosed parameters. With a higher pressure the small amount of water heated would be a large amount.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark H. Paschall whose telephone number is 571 272-4784. The examiner can normally be reached on 7am - 3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Mark H Paschall
Primary Examiner
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Mp